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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,661	12/16/2003	Akihiro Miyazaki	2003_1820	2854
513 7590 09/06/2007 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			EXAMINER PATEL, JATIN K	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 09/06/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/735,661

Applicant(s)

MIYAZAKI ET AL.

Examiner

Jatin K. Patel

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 53-72 is/are pending in the application.
- 4a) Of the above claim(s) 53-57 and 63-67 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 58-62 and 68-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group II, Claims 58-62 and 68-72 in the reply filed on 07/26/2007 is acknowledged.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 58-72 and 68-72 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 58, line 8-9 recites restoring transmission data of a compressed packet to be restored, based on an update information; It is not clear that what to update information referring to. Claims 59-62 are rejected since they are depending on rejected claim 58.

Regarding claim 68, line 8-9 recites restore transmission data of a compressed packet to be restored, based on an update information; It is not clear what to update information referring to. Claims 69-72 are rejected since they are depending on rejected claim 68.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent

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and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 58, and 68 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5 and 14 of U.S. Patent No. 6,914,903.

Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 58 and 68 of the current application merely broadens the scope of claims 5 and 14 respectively of Patent No. 6,914,903 by omitting the feature of storing received packet at regular intervals.

It has been held that the omission of an element and its function is obvious if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA), also note *Ex parte Rainu*, 168 USPQ 375 (Bd. App. 1969); the omission of a reference element whose function is not needed would be obvious to one skilled in the art.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 58-60, and 68-70 are rejected under 35 U.S.C. 102(b) as being anticipated by Birdwell (US Pat No 6,032,197).

Regarding claim 58-60, and 68-70 Birdwell teaches data reception method comprising: receiving uncompressed packet in which predetermined transmission data stored as uncompress data (fig 8, box 106); subsequently continuously receiving compressed packets in which at least a portion of transmission data following the predetermined transmission data is compressed and store as compressed data (fig 8, column 9, line 8-23); restoring transmission data of compressed packet to be restored, based on an update information relating to a packet which has been received prior to compressed packet to be restored and compressed data included compressed packet to be restored (fig 8, column 9 line 8-23, Abstract).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. **Claims 61-62 and 71-72** are rejected under 35 U.S.C. 103(a) as being unpatentable over Birdwell (US 6,032,197 Filed 09/25/07) in view of Kiriya (US Patent 5,579,303 11/26/1996).

Regarding claim 61, 62, 71, and 72 Birdwell teaches combination that teaches substantially all limitations of the parent claim.

Birdwell does not teach to receiving compressed packet at a predetermined interval and predetermined number of compressed packets.

Kiriya teaches to receiving compressed packet at a predetermined interval and predetermined number of compressed packets (column 1, line 19-29).

It would have been obvious to one ordinary skill in the art at the time of invention was made to add functionality of receiving packets at predetermined regular interval and predetermined number of packets from Kiriya to Birdwell in order to enhance accuracy in transmission.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

*Geiger (US 5,701,302) disclosed regarding adaptively compandig data packets in data communication system.

*Pazhyannur (US 6,198,735) disclosed regarding retransmitting data packet in a packet network.

*Carr (US 5,293,379) disclosed regarding packet based data compression method.

*Gibson (US 5,049,881 09/17/1991) disclosed regarding apparatus and method for very high speed data rate compression incorporating lossless data compression and expansion utilizing a hashing technique.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jatin K. Patel whose telephone number is 571-270-1839. The examiner can normally be reached on 8-5 Mon-Fri Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 571-272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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